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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,483	07/05/2001	Lawrence M. Ausubel	21736/0009	3673

7590 02/13/2006  
Connolly Bove Lodge & Hutz LLP  
Suite 800  
1990 M Street, N.W.  
Washington, DC 20036-3425

EXAMINER

DASS, HARISH T

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/898,483	<b>Applicant(s)</b> AUSUBEL, LAWRENCE M.	
	<b>Examiner</b> Harish T. Dass	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 41-44 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-40, drawn to auction of at least two types of items, classified in class 705, subclass 37.
  - II. Claims 41-44, drawn to a constraint in a clock auction, classified in class 705, subclass 37.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because I is directed to risk management optimization, and invention II is directed to computer performing metadata mapping.

The subcombination has separate utility such as integrating data.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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During a telephone conversation with Attorney Stanley B Green, Reg. # 24,351 (202-331-7111) on 1/17/2006 a provisional election was made with traverse to prosecute the invention of Group I (claims 1-40). Affirmation of this election must be made by applicant in replying to this Office action. Group II (Claims 41-44) are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Objections***

2. Claim 18 objected to because of the following informalities: a phrase "[Is this what you intended?]", which seem an extra phrase, Examiner assumes it is a typo error Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Growney et al (hereinafter Growney – US 2005/0187859).

Re. Claim 1, Growney discloses communicating a price vector, including a price for each of the types of items subject to the auction, to a plurality of bidders [Abstract;

Figure 2; Figure 3 and disclosure associated with Figure 3 (para. 0060); pg 1 para. 0006, 0013; pg 4 para. 0061; pg 6 para. 0082], receiving, in a computer, bids from plural bidders wherein at least some of said bids identify quantities of items of different types [pg 1 para. 0016; pg 4 para. 0064-0068], determining, based on the received bids, whether the auction should continue, and in the event that the auction will continue [para. 0015. 0062; 0064 – auction continue base on the seller choice or business choice, for example, if the auctioneer evaluates that it will not get more favorable bids it can discontinue, etc.], receiving, in the computer, further bids from plural bidders in response to the revised price vector and, in response to the further bids [para. 0080], crediting at least one item of a particular type with a particular bidder at a price in a closed interval between the price contained in the price vector and the price contained in the revised price vector [Abstract; pg1 para. 0015; para. pg 5 para. 0080-0081]. Growney does not explicitly disclose sending to one or more bidders a revised price vector. However, this feature is known. For example, in auction the last price in revealed (displayed) which lets the bidder to bid further and revise their bid. In case there is no further bid and the seller minimum quantity limit is reached, the auction can be closed. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosure of Growney and include sending to one or more bidders a revised price vector and let the bidders know of the recent price whether they want to continue for bidding or not.

Re. Claims 2-3, Growney discloses wherein at least two different types of items are

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related to each other (PCs Dell/Compaq), and wherein each type of item is related to at least one different type of item (Dell/Sun) [pg 1 para. 0016-para. 0022].

Re. Claims 4-5, Growney discloses where the price in the closed interval is the price contained in the revised price vector [pg 4 para. 0061], and wherein the price in the closed interval is the price in the price vector [pg 4 para. 0061].

Re. Claims 6-11, Growney discloses wherein at least one item of each selected type is credited to a bidder where a type is selected if the cumulative sum of quantities of that type has decreased in bids by a subset of bidders including all bidders except the bidder to be credited [para. 0070-0085], wherein the crediting to a bidder occurs when at least one of those items, the bids for which exhibited, in the bids of bidders other than the bidder, a cumulative decrease in the further bids relative to the bids [para. 0070-0085], wherein each type of item is the subject of a credit where, for that item, the bids exhibited, in the bids of bidders other than the bidder to be credited, a cumulative decrease in the further bids relative to the bids [para. 0070-0085], a further bid from a bidder is limited so that the sum of the number of items contained in a bid is less than or equal to the sum of the number of items contained in a bid submitted in the past [para. 0070-0085], wherein the limitation is applied to a group, less than all, of the types of items [para. 0070-0085; claims], and a further bid from a bidder is limited so that the number of items of any type contained in a bid is less than or equal to the number of

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those items contained in a bid submitted in the past [para. 0070-0086; Figure 12].

Re. Claim 12, Growney discloses communicating a price vector, including a price for each of the types of items subject to the auction, to a plurality of bidders Figure 2; Figure 3 and disclosure associated with Figure 3 (para. 0060); pg 1 para. 0006, 0013; pg 4 para. 0061; pg 6 para. 0082], receiving, in a computer, bids from plural bidders wherein at least some of said bids identify quantities of items of different types [pg 1 para. 0016; pg 4 para. 0064-0068], determining, based on the received bids, whether the auction should continue, and in the event that the auction will continue [para. 0015. 0062; 0064 – auction continue base on the seller choice], receiving, in the computer, further bids from plural bidders in response to the revised price vector and, in response to the further bids [para. 0080], selecting a particular bidder and determining, for a selected one of the types of items, whether the sum of the bids of other bidders is different in the further bids than in the received bids, and if it is, crediting the bidder with a number of the selected type of items equal to the change in the sum of the bids of other bidders at a price in a closed interval between the price contained in the price vector and the price contained in the revised price vector [para. 0070-0085]. Growney does not explicitly disclose sending to one or more bidders a revised price vector. However, this feature is known. For example, in auction the last price is revealed (displayed) which lets the bidder to bid further and revise their bid. In case there is no further bid and the seller minimum quantity limit is reached, the auction can be closed. It would have been obvious at the time the invention was made to a person having

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ordinary skill in the art to combine the disclosure of Growney and include sending to one or more bidders a revised price vector and let the bidders know of the recent price whether they want to continue for bidding or not.

Re. Claims 13-17, Growney discloses wherein the determination is effected for all other types of items, and wherein the determination is effected for all other bidders [para. 0075-0086], wherein the determination is repeatedly effected on receipt of bids subsequent to the further bids [para. 0070-0086], wherein the price in the closed interval is the price contained in the revised vector [para. 0070-0086], and wherein the price in the closed interval is the price contained in the price vector [para. 0070-0086].

Re. Claim 18, Growney discloses communicating a price vector, including a price for each of the types of items subject to the auction, to a plurality of bidders [Figure 2; Figure 3 and disclosure associated with Figure 3 (para. 0060); pg 1 para. 0006, 0013; pg 4 para. 0061; pg 6 para. 0082], receiving, in a computer system, bids from plural bidders wherein at least some of said bids identify quantities of items of different types [pg 1 para. 0016; pg 4 para. 0064-0068], determining, based on the received bids, whether the auction should continue, and in the event that the auction will continue [para. 0015. 0062; 0064 – auction continue base on the seller choice or business choice], receiving, in the computer system, further bids from plural bidders in response to the revised price vector and, in response to the further bids, [para. 0080], crediting, to a bidder at least one of those items, the bids for which exhibited, in the bids of bidders



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other than the bidder, a cumulative decrease in the further bids relative to the bids [Abstract; para. 0015; para. 0080-0081; 0068]. Growney does not explicitly disclose sending to one or more bidders a revised price vector. However, this feature is known. For example, in auction the last price is revealed (displayed) which lets the bidder to bid further and revise their bid. In case there is no further bid and the seller minimum quantity limit is reached, the auction can be closed. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosure of Growney and include sending to one or more bidders a revised price vector and let the bidders know of the recent price whether they want to continue for bidding or not.

Re. Claim 19, Growney discloses wherein the credit is at a price in a closed interval between the price contained in the price vector and the price contained in the revised price vector [para. 0015; para. 0080-0081].

Re. Claims 20-21, Growney discloses wherein at least two different types of items are related to each other, and wherein each type of item is related to at least one different type of item [pg 1 para. 0016-para. 0022].

Re. Claims 22-23, Growney discloses where the price in the closed interval is the price contained in the revised price vector, and wherein the price in the closed interval is the price in the price vector [pg 4 para. 0061].

Re. Claim 24, Growney discloses communicating a price vector, including a price for each of the types of items subject to the auction, to a plurality of bidders [Figure 2; Figure 3 and disclosure associated with Figure 3 (para. 0060); pg 1 para. 0006, 0013; pg 4 para. 0061; pg 6 para. 0082], receiving, in a computer system, bids from plural bidders wherein at least some of said bids identify quantities of different types of items [pg 1 para. 0016; pg 4 para. 0064-0068], determining, based on the received bids, whether the auction should continue, and in the event that the auction will continue [para. 0015. 0062; 0064 – auction continue base on the seller choice or business choice], receiving, in the computer system, further bids from plural bidders in response to the revised price vector and, in response to the further bids [para. 0080], crediting, to a selected bidder at least one of those items, the bids for which exhibited, in bids of bidders other than the selected bidder, a cumulative decrease in the further bids relative to the bids to establish an item credit [Abstract; para. 0015; para. 0080-0081], and reducing the item credit in the event bids, by bidders other than the selected bidder, show a cumulative increase in bids for that item after the item credit is established [para. 0065 – see reverse price]. Growney does not explicitly disclose sending to one or more bidders a revised price vector. However, this feature is known. For example, in auction the last price is revealed (displayed) which lets the bidder to bid further and revise their bid. In case there is no further bid and the seller minimum quantity limit is reached, the auction can be closed. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosure

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of Growney and include sending to one or more bidders a revised price vector and let the bidders know of the recent price whether they want to continue for bidding or not.

Re. Claim 25, Growney discloses wherein the credit is at a price in a closed interval between the price contained in the price vector and the price contained in the revised price vector [Abstract; para. 0015; para. 0080-0081].

Re. Claims 26-27, Growney discloses wherein at least two different types of items are related to each other [[pg 4 para. 0061], and wherein each type of item is related to at least one different type of item [pg 4 para. 0061].

Re. Claims 28-29, Growney discloses 28. A **method** as recited in claim 25 where the price in the closed interval is the price contained in the revised price vector [pg 4 para. 0061], and wherein the price in the closed interval is the price in the price vector[pg 4 para. 0061].

Re. Claim 30, Growney discloses communicating a price vector, including a price for each of the types of items subject to the auction, to a plurality of bidders [Figure 2; Figure 3 and disclosure associated with Figure 3 (para. 0060); pg 1 para. 0006, 0013; pg 4 para. 0061; pg 6 para. 0082], receiving, in a computer system, bids from plural bidders wherein at least some of said bids identify quantities of items of different types [pg 1 para. 0016; pg 4 para. 0064-0068], determining, based on the received bids,

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whether the auction should continue, and in the event that the auction will continue [para. 0015. 0062; 0064 – auction continue base on the seller choice or business choice], limiting any further bid from a bidder so that the sum of the number of items contained in a bid is less than or equal to the sum of the number of items contained in a bid submitted in the past [para. 0070-0085]. Growney does not explicitly disclose sending to one or more bidders a revised price vector. However, this feature is known. For example, in auction the last price is revealed (displayed) which lets the bidder to bid further and revise their bid. In case there is no further bid and the seller minimum quantity limit is reached, the auction can be closed. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosure of Growney and include sending to one or more bidders a revised price vector and let the bidders know of the recent price whether they want to continue for bidding or not.

Re. Claims 31-40, Growney discloses wherein the bid is limited so the sum of the number of items of different types is less than or equal to the sum of the number of items of different types contained in a bid submitted in the past is limited to the items from a group of types of items, where the group of types of items is less than all types of items [para. 0070-0085], wherein the bid is limited so the number of items which is less than or equal to the number of items contained in a bid submitted in the past is items from a single type of the items, and wherein the bid is limited so the number of items which is less than or equal to the number of items contained in a bid submitted in the

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past applied separately to items from each type of the items [para. 0070-0085], and wherein the limiting is implemented by rejecting any bid in which the sum of the number of items contained in the bid is not less than or equal to the sum of the number of items contained in a bid submitted in the past [para. 0070-0085], and wherein bidders use terminals to manifest a bid and the terminal rejects any bid in which the sum of the number of items contained in the bid is not less than or equal to the sum of the number of items contained in a bid submitted in the past, and which includes the further step of informing a bidder that a bid has been rejected as not limited so that the sum of the number of items contained in a bid is less than or equal to the sum of the number of items contained in a bid submitted in the past [para. 0070-0085]. Growney does not explicitly disclose wherein rejected bids are ignored in any determinations subsequent to the rejection, wherein the computer system rejects any bid in which the sum of the number of items contained in the bid is not less than or equal to the sum of the number of items contained in a bid submitted in the past, which includes the further step of informing a bidder that a bid has been rejected as not limited so that the sum of the number of items contained in a bid is less than or equal to the sum of the number of items contained in a bid submitted in the past, and wherein rejected bids are ignored in any determinations subsequent to the rejection. However, these feature are business choices, if the rejected bid are not beneficial to the bidding process, they can be ignored. It would have been obvious to one of ordinary skill in the art at the time the Applicant's invention was made to modify the disclosure of Growney and include the

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above limitations to maximize the auction return to auctioneer.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following prior art are directed to auctions and related to applicant's invention:

US 3,581,072

US 6,449,601

US 5,835,896.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Harish T Dass  
Examiner  
Art Unit 3628

2/4/06

  
FRANCKY POINVIL  
PRIMARY EXAMINER  
AU 3628